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there is evidence to sustain the verdict, a mere difference of opinion does not justify the court in reducing it.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 795-799; Dec. Dig. § 340.\* 4 Va.-W. Va. Enc. Dig. 203.]

**2. Trial (§ 340\*)—Reduction of Verdict—Power of Court.**—Where the items of damages claimed could have legitimately resulted from a breach of contract complained of, and on the evidence the quantum of damages was for the jury, a reduction of the verdict is unauthorized, in the absence of any ground for interference therewith.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 795-799; Dec. Dig. § 340.\* 4 Va.-W. Va. Enc. Dig. 203.]

**3. Appeal and Error (§ 1175\*)—Disposition of Case on Appeal—Judgment.**—Where the trial court erroneously reduced the damages awarded by the jury, and gave judgment for a part only, the court, on writ of error, will render judgment for the balance of the damages, with interest thereon from the date of the judgment of the trial court, with costs.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 4573-4587; Dec. Dig. § 1175.\* 1 Va.-W. Va. Enc. Dig. 628.]

Error to Circuit Court of City of Lynchburg.

Action by C. C. Hoffman against H. Shartle and others. There was a judgment granting insufficient relief, and plaintiff brings error. Reversed.

*Don. P. Halsey and Thos. J. O'Brien*, for plaintiff in error.  
*Roper & Davis*, for defendants in error.

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McINTYRE *v.* WRIGHT.

March 14, 1912.

[74 S. E. 172.]

**1. Witnesses (§ 159\*)—Competency—"Transaction" with Decedent.**—Code 1904, § 3346, which provides that, where one of the original parties to a "transaction" is incapable of testifying by reason of death, etc., the adverse party shall not testify thereto, prevents a wife, in suing her husband's estate for her distributive share in the estate of her brother, of which her husband was administrator, from testifying whether her husband paid her such distributive share (quoting 8 Words and Phrases, 7062).

[Ed. Note.—For other cases, see Witnesses, Cent. Dig. §§ 664, 666-669, 671-682; Dec. Dig. § 159.\* 13 Va.-W. Va. Enc. Dig. 944.]

**2. Executors and Administrators (§ 513\*)—Accounts—Falsification—Evidence—Sufficiency.**—Testimony that an administrator paid individual debts with checks drawn by him as administrator is insuffi-

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

cient to show a misappropriation of funds, as against a confirmed report of a commissioner of accounts, showing that the checks were proper and satisfactory vouchers, and that all funds coming into the administrator's hands had been properly accounted for.

[Ed. Note.—For other cases, see Executors and Administrators, Cent. Dig. §§ 2267-2291; Dec. Dig. § 513.\* 5 Va.-W. Va. Enc. Dig. 676; 11 Va.-W. Va. Enc. Dig. 748.]

Error to Circuit Court, Fauquier County.

Bill by Loretta Wright against R. A. McIntyre. Decree for plaintiff, and defendant brings error. Reversed and remanded. CARDWELL, J., absent.

*R. A. McIntyre*, in pro. per.

*Keith & Richards*, for defendant in error.

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SOUTHERN RY. CO. v. VALENTINE'S PERSONAL REPRESENTATIVE.

March 14, 1912.

[74 S. E. 173.]

**1. Railroads (§ 327\*)—Highway Crossings—Duty of Travelers.**—A railroad track crossing a highway is a proclamation of danger, which requires a traveler to look and listen for approaching trains before attempting to cross, and to use ordinary care to make looking and listening effective.

[Ed. Note.—For other cases, see Railroads, Cent. Dig. §§ 1043-1056; Dec. Dig. § 327.\* 4 Va.-W. Va. Enc. Dig. 137.]

**2. Railroads (§ 348\*)—Highway Crossing Accidents—Contributory Negligence—Evidence—Sufficiency.**—That decedent, who was killed by a train while driving across a track, when within 200 yards of the crossing, again when within 100 yards of it, and when at the edge thereof, could have seen a train approaching in time to prevent a collision, shows that he was guilty of contributory negligence, barring recovery for his death.

[Ed. Note.—For other cases, see Railroads, Cent. Dig. §§ 1138-1150; Dec. Dig. § 348.\* 4 Va.-W. Va. Enc. Dig. 137.]

Error to Circuit Court, Mecklenburg County.

Action by Tinker Valentine's personal representative against the Southern Railway Company. Judgment for plaintiff, and defendant brings error. Reversed and remanded.

*Williams & Tunstall*, for plaintiff in error.

*Faulkner & Faulkner* and *Chas. T. Reekes*, for defendant in error.

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.